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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,704	07/26/2001	Jean M. Goldschmidt Iki	42390P6487C	9062

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EXAMINER	
YIMAM, HARUN M	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/916,704	GOLDSCHMIDT IKI ET AL.	
	Examiner	Art Unit	
	Harun M. Yimam	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 July 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *07/26/2001*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 6,295,646. Although the conflicting claims are not identical, they are not patentably distinct from each other for the following reasons provided below.

3. Claim 1 of the instant application corresponds to patented claim 1 of U.S. Patent No. 6,295,646. Although the conflicting claims are not identical, both claims are drawn to the same invention: “A method for presenting entertainment selections”. These claims differ in scope due to the fact that claim 1 of the instant application is broader in scope than patented claim 1.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patented claim 1 by broadening the scope so as to obtain claim 1 of the instant application.

Allowance of claim 1 would result in the unwanted time-wise extension of the monopoly granted for the invention as defined in patented claim 1.

Claim 2 of the instant application corresponds to patented claim 1.

Claim 3 of the instant application corresponds to patented claim 1.

Claim 4 of the instant application corresponds to patented claim 6.

Claim 5 of the instant application corresponds to patented claims 7 and 9.

Claim 6 of the instant application corresponds to patented claims 2 and 4 with additional limitation "video data comprises video images of the respective entertainment selections". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patented claims 2 and 4 with the additional limitation so as to present a video image representing the video data of a particular entertainment.

Claim 7 of the instant application corresponds to patented claims 2 and 4 with additional limitation "video images comprises a still image taken from a real-time broadcast of the respective entertainment selections". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patented claims 2 and 4 with the additional limitation so as to present a still image representing the video data of a particular entertainment.

Claim 8 of the instant application corresponds to patented claim 10.

Claim 9 of the instant application corresponds to patented claim 2.

Claim 10 of the instant application corresponds to patented claim 5.

4. Claim 11 of the instant application corresponds to patented claim 15 of U.S. Patent No. 6,295,646. Although the conflicting claims are not identical, both claims are drawn to the same invention: "A graphical user interface (GUI)". These claims differ in scope due to the fact that claim 11 of the instant application is broader in scope than patented claim 15.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patented claim 15 by broadening the scope so as to obtain claim 11 of the instant application.

Allowance of claim 11 would result in the unwanted time-wise extension of the monopoly granted for the invention as defined in patented claim 15.

Claim 12 of the instant application corresponds to patented claim 28.

Claim 13 of the instant application corresponds to patented claim 16.

Claim 14 of the instant application corresponds to patented claims 8 and 9.

Claim 15 of the instant application corresponds to patented claim 5.

Claim 16 of the instant application corresponds to patented claim 10.

5. Claim 17 of the instant application corresponds to patented claim 11 of U.S. Patent No. 6,295,646. Although the conflicting claims are not identical, both claims are drawn to the same invention: "...readable medium having stored thereon a sequence of instructions..." These claims differ in scope due to the fact that claim 17 of the instant application is broader in scope than patented claim 11.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patented claim 11 by broadening the scope so as to obtain claim 17 of the instant application.

Allowance of claim 17 would result in the unwanted time-wise extension of the monopoly granted for the invention as defined in patented claim 11.

Claim 18 of the instant application corresponds to patented claim 1.

Claim 19 of the instant application corresponds to patented claim 1.

Claim 20 of the instant application corresponds to patented claim 5.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-7 and 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Matthews, III (US 5,815,145).

Considering claim 1, Matthews discloses a method for presenting entertainment selections (selecting a video programming tile-102 using a keypad-90—column 4, lines 35-43), comprising: displaying video data of a first entertainment selection on a first window (multiple video programming tiles,102 in figure 4, corresponding to different a programming are displayed—column 4, lines 44-55); displaying video data of a second entertainment selection on a second window (102 in figure 4); and displaying entertainment system data regarding the entertainment selection corresponding to the respective window upon selection by a user of the respective window (column 5, lines 6-30).

As for claim 2, Matthews discloses displaying further entertainment system data corresponding to the first entertainment selection in a first area of the first window (channel logo or icon in 102a of figure 4—column 4, lines 49-60); and displaying further entertainment system data corresponding to the second entertainment selection in a first area of the second window (each tile includes a channel identification panel 106 in figure 4 for identifying the corresponding channel with a channel number, channel logo or icon and name of the program or the program provider—column 4, lines 49-60); wherein selection of the respective window comprises selection of the respective first areas of the respective windows (a viewer can use a cursor, 108 in figure 4, anywhere on the video programming tile 102 for program selection—column 5, lines 6-10).

With regards to claim 3, Matthews discloses displaying still further entertainment system data corresponding to the first entertainment selection in a second area of the first window (name of the program or the program provider in 102a of figure 4—column 4, lines 49-60); and displaying still further entertainment system data corresponding to the second entertainment selection in a second area of the second window (each tile includes a channel identification panel 106 in figure 4 for identifying the corresponding channel with a channel number, channel logo or icon and name of the program or the program provider—column 4, lines 49-60); wherein selection of the respective window comprises selection of the respective second areas of the respective windows (a viewer can use a cursor, 108 in figure 4, anywhere on the video programming tile 102 for program selection—column 5, lines 6-10).

Regarding claim 4, Matthews discloses that the further entertainment system data in the first area comprises at least one of a call sign of the entertainment selection source, a channel of the entertainment selection source, a title of the entertainment selection, rating information of the entertainment selection, time of broadcast of the entertainment selection, and length of broadcast of the entertainment selection (each programming tile includes a channel identification panel 106 in figure 4 for identifying the corresponding channel with a channel number, channel logo or icon and name of the program or the program provider—column 4, lines 49-60).

Considering claim 5, Matthews discloses that the entertainment system data displayed upon selection of the respective window comprises at least one of a description of the respective entertainment selection and a critique of the respective entertainment selection (the tuned programming rendered within the video programming tile equates to the description of the respective selection—column 5, lines 16-28).

As for claim 6, Matthews discloses that the video data comprises video images (image frame or still images of the programming) of the respective entertainment selections (column 5, lines 36-44).

With regards to claim 7, Matthews discloses that the video images comprise a still image taken from a real-time broadcast of the respective entertainment selections (column 5, lines 36-44).

Considering claim 9, Matthews discloses determining a user's preference of entertainment selection sources (channels most frequently accessed by the user); obtaining video data corresponding to entertainment selections broadcasted on the preferred entertainment selection sources (column 10, lines 34-42); and wherein the first and second entertainment selections are selected from among the obtained video data (column 10, lines 34-47).

As for claim 10, Matthews discloses receiving a preferred trait from the user (column 10, lines 38-40), the trait being related to at least one entertainment selection (most frequently accessed channels); identifying entertainment selections with the preferred trait by reference to a database (memory 68 of figure 2) of entertainment selections; and wherein the first and second entertainment selections are selected from among the identified entertainment selections (column 10, lines 34-47).

With regards to claim 11, Matthews discloses a graphical user interface (GUI) (video program guide 100 in figure 4), comprising: a first window that displays video data of a first entertainment selection (multiple video programming tiles,102 in figure 4, corresponding to different a programming are displayed—column 4, lines 44-55); a second window that displays video data of a second entertainment selection (102 in figure 4); the first and second windows comprising selectable multimedia identifiers (cursor 108 in figure 4) that can be selected by a user to cause the display of descriptive information regarding the entertainment selection corresponding to the respective window (column 5, lines 6-30).

Regarding claim 12, Matthews discloses a first area of the first window that displays an identification (channel identification panel 106 in figure 4) of the source of the first entertainment selection; a second area of the first window that displays a title of the first entertainment selection (name of the corresponding program); a first area of the second window that displays an identification of the source of the second

entertainment selection (each video programming tile 102 in figure 4 includes channel identification panel 106 in figure 4 for identifying the corresponding channel with a channel number, channel logo or icon and name of the program or the program provider—column 4, lines 49-60); and a second area of the second window, that displays a title of the second entertainment selection; wherein selection of the respective window comprises selection of the respective second areas of the respective windows (column 5, lines 2-30).

Considering claim 13, Matthews discloses a navigation tool (keypad 90 in figure 3) that allows a user to view additional windows that display video data of additional entertainment selections on the GUI (column 4, lines 37-42 and column 5, lines 2-5).

As for claim 14, the claimed limitations are met by claim 5.

With regards to claim 15, the claimed limitations are met by claim 10.

Regarding claim 16, the claimed limitations are met by claim 8.

Considering claim 17, Matthews discloses a machine-readable medium (20 in figure 2) having stored thereon data representing sequences of instructions which, when executed by a machine, cause the machine to perform operations (column 3, lines 30-38 and column 4, lines 9-42) comprising: displaying video data of a first

entertainment selection on a first window (multiple video programming tiles,102 in figure 4, corresponding to different a programming are displayed—column 4, lines 44-55); displaying video data of a second entertainment selection on a second window (102 in figure 4); and displaying entertainment system data regarding the entertainment selection corresponding to the respective window upon selection by a user of the respective window (column 5, lines 6-30).

As for claim 18, the claimed limitations are met by claim 2.

With regards to claim 19, the claimed limitations are met by claim 3.

Regarding claim 20, the claimed limitations are met by claim 10.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, III (US 5,815,145) in view of Braodwin (US 5,903,816).

Considering claim 8, Matthews discloses a multi-frame screen display of entertainment selections (column 4, lines 44-55).

Matthews fails to disclose a full-screen display of the corresponding entertainment selection upon selection by the user of the respective window.

In analogous art, Broadwin discloses thumbprints of MPEG still images (figure 18) that may be selected to a full-screen display (column 18, lines 5-8 and 33-37).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Matthews system to include a full-screen display of the corresponding entertainment selection, as taught by Broadwin, for the benefit of viewing a still image in its full size (column 18, lines 33-37).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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